

DEPARTMENT OF TELECOMMUNICATIONS  
COMMONWEALTH OF MASSACHUSETTS

)  
Investigation by the Department of )  
Telecommunications and Energy on its )  
own motion pursuant to G.L. c. 159, ) D.T.E. 01-34  
 §§ 12 and 16, into Verizon New England Inc. )  
d/b/a Verizon Massachusetts' provision of )  
Special Access Services )  
)  
)

JOINT COMMENTS OF CABLE & WIRELESS USA, INC. and GLOBAL CROSSING NORTH AMERICA, INC.  
IN SUPPORT OF MOTIONS TO EXPAND SCOPE OF PROCEEDING

Pursuant to the procedural schedule established by the Department of Telecommunications and Energy ("Department") at its public hearing on April 4, 2001, Cable & Wireless USA, Inc. ("Cable & Wireless") and Global Crossing North America, Inc. ("Global Crossing") hereby submit these comments in support of the motions to expand the scope of the proceeding filed by AT&T Communications of New England, Inc. ("AT&T") (1) and Conversent Communications of Massachusetts, LLC ("Conversent"). (2) In support of these motions, Cable & Wireless and Global Crossing state as follows:

I. the Department must include special access offerings provisioned under Verizon's federal tariffs

1. Cable & Wireless and Global Crossing agree with AT&T that the Department should investigate Verizon's performance with respect to all special access offerings in Massachusetts, including those provisioned under Verizon's federal tariffs.
2. To provide service in the Commonwealth of Massachusetts, Cable & Wireless and Global Crossing rely upon Verizon-MA for special access services and order those services primarily out of Verizon's interstate access tariffs. Since Verizon continues to maintain overwhelming control over the access market, Cable & Wireless and Global Crossing are critically dependent on Verizon for their ability to serve customers in Massachusetts in a timely and reliable manner.
3. Cable & Wireless and Global Crossing have been and continue to be substantially harmed by Verizon-MA's unreasonable and unlawful special access provisioning. Particularly now that Verizon has obtained authority pursuant to §271 of the

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Communications Act to provide InterLATA service originating in Massachusetts, the Department must take all available steps to improve Verizon-MA's performance and ensure that the extended delays that carriers are now facing will not be used to the competitive advantage of Verizon's Section 272 affiliate.

4. AT&T is correct when it states that by limiting the investigation only to services that Verizon provisions under the MDTE Tariff 15, "the Department will so limit its access to meaningful data that it will significantly undercut its ability to assess the nature and extent of the problem and design an appropriate solution." (3) For the Verizon problem to truly be addressed, the Department must examine Verizon's performance in provisioning access ordered out of both the MDTE and FCC Tariffs.

5. The problems that Cable & Wireless and Global Crossing encounter are primarily from circuit orders placed under Verizon's federal tariff. These problems are preventing competitors from entering the Massachusetts market, and have severe consequences on the Massachusetts economy. Since Verizon uses the same ordering and provisioning processes, and the same personnel to provide these special access services, there is simply no reason to focus on those circuits ordered under the state tariff to the exclusion of those ordered under the federal tariff. Regardless of which tariff is used to order the circuits, the impact of Verizon's poor service is felt locally.

6. In its Vote and Order to Open Investigation, the Department cited Verizon's "problems providing high capacity trunks, lack of SONET interoffice facilities, and lack of switch ports," problems that were raised in the comments of Global Crossing on the Verizon 271 application. (4) As noted in its Petition to Intervene in this proceeding, however, Global Crossing orders special access services in Massachusetts out of the Verizon federal access tariff. The problems encountered by carriers purchasing out of the state and federal tariffs are identical, and, indeed, inseparable. As AT&T correctly noted, "limiting the investigation to the fraction of orders not steered by Verizon to fall under the federal tariff will mean that the Department's investigation will neither address nor resolve in a meaningful way the critical problems faced by competitive carriers and their customers in Massachusetts." (5)

7. The Department must include both types of circuits in this evaluation for performance measurement reasons as well. As the Department is undoubtedly aware, Verizon frequently attempts to rebut truthful assertions of substandard performance with what can be best described as "sample size" arguments. Verizon will, all too often, assert that poor performance should be disregarded simply because the sample size is too small to be statistically valid. Excluding the numerous orders placed under the federal tariff would be to invite this obfuscatory tactic and may frustrate the Department's stated intention of determining "(1) whether Verizon's special access services are reasonable under G.L. c. 159, §16; and (2) if so, what steps Verizon should be required to take to improve its special access services." (6)

8. Cable & Wireless and Global Crossing already know, from firsthand experience, that Verizon's provisioning of special access services is not reasonable under §16 of G.L. c. 159. Including special services ordered from both the MDTE and FCC tariffs will make this more easily apparent to the Department. Once this occurs, Cable & Wireless and Global Crossing suggest the imposition of reporting requirements for special access performance, the creation of a performance assurance plan for special access, and the ordering of a performance improvement schedule.

IX. the Department should examine verizon's provision of high capacity unbundled loops in this proceeding

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10. Cable & Wireless and Global Crossing support the Petition of Conversent to include Verizon's provision of high capacity unbundled loops in this proceeding. Just as Verizon's FCC tariff-provided access services are relevant to any review of the MDTE-tariffed services, the high capacity loops very often provide equivalent functionality and should therefore be included in this proceeding. Excluding such loops from this investigation would permit Verizon to unreasonably withhold data that is germane to the examination of special access performance and would permit Verizon to discriminate between the two services.

11. Poor performance by Verizon in provisioning high capacity loops has much the same impact as poor special access performance: less competition, fewer choices for high bandwidth end users, and adverse economic impacts on the Massachusetts economy. The Department should not do harm to the nascent advanced services market by drawing the artificial distinctions Verizon will likely propose.

12. High capacity loop and special access performance data are both critical in determining "whether Verizon's special access services are reasonable under G.L. c. 159, §16." (7) In addition, including high capacity loops will increase the number of observations included in any analysis, thereby providing more statistical validity and more reasoned conclusions. In order to achieve its stated objectives, the Department must include high capacity loops in this proceeding.

conclusion

For the foregoing reasons, Cable & Wireless and Global Crossing respectfully request that the Department grant the motions to expand the scope of the proceeding filed by AT&T and Conversent. Cable & Wireless and Global Crossing encourage the Department to start this proceeding with a logically broad scope, and narrow the focus only as warranted by the evidence, and not the rhetoric.

Respectfully submitted,

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#### CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2001, copies of the foregoing  
Comments

were sent to the Department via e-mail and overnight mail and were served on the  
parties listed on the attached Service List.

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Michelle Arbaugh

1.

1 AT&T Communications of New England, Inc.'s Motion to Expand Investigation, DTE  
01-34, April 6, 2001 ("AT&T Motion").

2.

2 Petition of Conversent Communications of Massachusetts, LLC to Expand Scope of  
Page 4

Proceeding, DTE 01-34, March 30, 2001.

3.

3 AT&T Motion at page 3.

4. 4 Investigation by the Department of Telecommunications and Energy on its own motion pursuant to G.L. c. 159, §§ 12 and 16, into Verizon New England Inc. d/b/a Verizon Massachusetts' provision of Special Access Services, DTE 01-34, March 14, 2001, at page 3 ("DTE Special Services Order"), citing Comments of Global Crossing on Application by Verizon New England, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), and Verizon Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts, FCC CC Docket No. 01-9.

5.

5 AT&T Motion at page 4.

6. 6 DTE Special Services Order at page 3.

7. 7 Id.